IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

::::

O R D E R

Kailash Dan
vs.
State of Rajasthan & Ors.

S.B. CIVIL WRIT PETITION NO.3715/2006 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 20th November, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.Kuldeep Mathur, Advocate for the petitioner.
Mr.B.L. Tiwari, Dy. Govt. Advocate.
Mr.G.R. Punia, Advocate for the respondents.

BY THE COURT

The petitioner who is working as a Tehsil Revenue Accountant in Tehsil Office, Merta has filed this writ petition challenging the order of his transfer dated 15th July, 2006 whereby he has been

transferred from Tehsil Merta to Tehsil Nagaur within the same district. According to the petitioner, he was posted at Tehsil Merta by order of District Collector dated 14th July, 2005 from district Nagaur vice Shri Prem Bahadur respondent No.4. The respondent No.4 by order dated 12th July, 2005 was transferred to Collectorate, Baswara but he was not relieved and this order of transfer was thus never acted upon and now suddenly he has been brought back to Tehsil Office Merta by the impugned order while the petitioner has been shifted to Tehsil office Nagaur. According to the petitioner, the impugned order of transfer has been passed only with a view to accommodating the respondent No.4 and the petitioner has been disturbed within one year from his last posting at Merta. The impugned order is therefore liable to be rejected.

The respondent No.4 who has contested the petition has in his reply stated that during most of his service period, the petitioner has remained posted at Merta. He was first posted at Tehsil office Merta by order dated 05th November, 1982 where he continued to work till 12th June, 1995 and he was transferred to nearby place Degana then again he was transferred to Merta by order dated 25th June, 1997. It has been stated that transfer order of respondent No.4 from Nagaur to Barmer was cancelled by the Board of Revenue on 18th

November, 2005 and therefore he was posted at Tehsil Office Merta in administrative exigencies.

I have heard learned counsel for the parties and perused the record.

It is essentially a matter to be decided by the Government as to which of its employees should be posted depending on exigencies of administration. It is trite law that interference with the order of transfer can be made only if it has been passed in violation of some statutory rules or is actuated by proven mala fides.

From the pleadings of the parties and the vigour with which the matter has been contested, it does appear that both the petitioner and the respondent No.4 are interested in staying at Merta, but there being only one post of Tehsil Revenue Accountant, both of them cannot be posted at Merta. Mere allegation that the impugned order has been passed in order to accommodate the respondent No.4 does not make out it to be a case of mala fides because same can be said of the petitioner also when he is posted there as according to the respondents he too has remained posted at Merta for substantial part of his service career.

Having considered the matter in its entirety, I do not find it to be a fit case in which this Court in exercise of its extra ordinary jurisdiction should interfere. The writ petition is accordingly dismissed with no order as to costs.

[MOHAMMAD RAFIQ],J.

A.K.Chauhan/-